

THE LORD MAYOR'S Right of Electing a Sheriff

Asserted against All

PRETENSIONS of a Popular **F ACTION**.

THE Subject of the Right of Electing Sheriffs has of late furnish'd Matter more than enough for Popular Prints and Discourses: And as it is a Point of Great Importance in the Consequence of Resolving it, *One way or another*; So has it rais'd a General Curiosity to Enquire into the *True State*, and to hearken after the *Issue* of this *Question*. With This Appetite, I betook my self to the reading of Several Papers, pretending Expressly to handle This Text; and to set People Right in the Understanding of the *Present Controversie*: Such as *The Modest Enquiry concerning the Election of the Sheriffs of London*; And others of the same Stamp. But when I came to look for Satisfaction about the business of the Sheriffs, I found my self up to the Ears presently in *Miscarriages of State*; *Ironical Insinuations* (to make them no worse) of *Arbitrary Practices*, and *Designs* in his Majesty; *Corruption*, and *Insufficiency* in his Ministers; *Popish Successors*; *French Confederacies*; *Meal-Tub Plots*; *Perjuries*; *Impostures*; *Subornations*; *Libellous Reflexions* upon the Lord Mayor; The Loyal and Honourable Part of the Citizens, and the Lawful Government of the City, &c. What is all this now, to the **CONFIRMATION** of the *Common Hall*, or the **JURISDICTION** of the Sheriffs? which, (although the main, and indeed the onely Stress of the Case) does not take up one fourth part of the Pamphlet: And that stuff up too, with *Vulgar Amusements*; and little or no force of *Authority*, or *Persuasion*. Let any body Judge now of the *Drift*, and *Intent* of these Papers, where there is so little said to the *Argument*, and so much pains taken; and so much *Skill*, therewithall, to *Defame*, to *Embroider*, and to *Enrage* the multitude against the Government.

This will appear no Uncharitable Construction, to any man that Considers, first, the *Tendency* of the Proceeding. Secondly, The *Train*, and *Method* of it. Thirdly, The *Humour*, and *Condition* of the Instruments that Manage it.

To the First, It is an *Incentive*, as well Dispos'd and Accommodated to the moving of a *Sedition*, as the Wit of man could Contrive. For what can be more *Provoking* than to Proclaim the Government *Unjust*, and *Arbitrary*, to the Highest Degree? And so to follow This *Calumny*, with putting it into the Peoples Heads that they have a *Right* to Deliver themselves from This (*Imaginary*) *Oppression*? And then, To Sound the Trumpet to the Battel; by Bidding them *Stand up*, and *Vindicate their Privileges*.

Now, as to the *METHOD*, It is the very same that brought on the Confusions of the late times: It is the very *Question* that was started in 1641. And the *Faction* could never break in upon the *Crown*, the *Church*, and the *People*, till they had first *Subverted*, and *Revers'd* the Government of This City. There must be *Power* to Justi-

the Wrong; And when it comes to that once, there is no Contending by *Conscience*, and *Reason*, with *Men*, *Money*, and *Ammunition*; And when the *Rebellion* is once got into the *Saddle*, there will never want *Lawyers* to *Warrant* it. In short, there needs no more to the Introducing of a *Democracy*, and making *London* a Theatre of *Violence*, and *Disorder*; as much as ever *Rome*, or *Florence* was; than to Possess the People that the *Right* is in *Them* to *Govern*.

How much then does it concern the *Lord Mayor*, and *Aldermen* to Assert their *Privileges*; and all good *Citizens* to Uphold the *Government* of *This City* upon its *Ancient Foundation*; which cannot be, but by maintaining their *OLD CUSTOMS*: Nay, how much does it Import the *King*; (and, I may say, the *Kingdom* also) to hinder any *Irregular Change* in this Great City; which does so Powerfully Influence the *whole*; and to *Protect* the *Citizens* in their *Due Rights*, and *Liberties* against *All Encroachments*, or *Invasions* whatsoever.

Lastly, It is a *Further*, and a *Strong Presumption*, that there's Mischief a Brewing; the finding so many of the *Old Instruments*, that Confounded the *Late Government*, at work now again under the self same Masque of *Religion*, *Liberty*, and *Property*; *Plots*, *Evil Counsellors*, *Popery*, &c. to Engage us in *New Troubles*.

As to the *Seditious Part* of The *Republican Papers* that have come abroad upon This Subject, somewhat has been said already; and more may be said hereafter: And to the rest, It shall suffice to speak Plainly, and Briefly to the matter in hand; and rather to Encounter Objections That way, by Clearing the main Cause, than to Weary out either the Reader, or my-self, with Frivolous, and Tedious Recitals.

For Method's sake, before we come to Treat of the *Right of Election*, we shall first set forth the *Usage* in the *Formalities*, at the time of *Election*; And, after That, the *Different Usage* in Chusing *Citizens* to *Parliament*: which we find Extracted word for word, out of *Stow's Survey of London*, [in the *Book of Habits*] Imprinted Anno 1617. And in These words following.

Upon Midsummer-day for the Election of the Sheriffs of London.

My Lord Mayor and the Aldermen, with the Sheriffs, met at the Guild-Hall at eight of the Clock in the Morning, apparelled in their Violet Gowns lined, and their Cloaks of Scarlet lined, without their Horses.

And when they have been together in the Council-Chamber a certain time, concerning the nomination of certain persons to be Elected, my Lord and the Aldermen come out, and put on their Cloaks in the Dyphans Court, and then go down in order to the Hustings Court, and there being set, Master Recorder standeth up, and maketh his Obedience, first to my Lord, and then unto the Commons, and declareth unto them wherefore they are assembled together, shewing unto them that it is for the Election of one of the Sheriffs of London, and the Sheriff of Middlesex for the Year next ensuing, and the CONFIRMATION of the other Sheriff nominated by my Lord Mayor, according to his PREFERENCE; and also for Master Chamberlain and other Officers.

But my Lord and the Aldermen go up to my Lord's Court, and there remain until the Sheriff be named and chosen, the way shew to them.

Then Master Sheriffs, Master Chamberlain, Master Common Serjeant, Master Town-Clerk, and the Counsellors of the City, and other Officers, remain still in the Hustings Court, to take and receive the Name of him that shall seem by their judgments, freely and with one consent to be nominated and elected, and justly tried out, not onely by voice, but also by hands, to be Sheriff for the Year following. P. 1. 2. 3.

For Election of Knights and Burgeses of the Parliament.

All the Aldermen met my Lord, and the Sheriffs at Guild Hall at Nine of the Clock in Violet Gowns, and Their Cloaks Furred or Lined as the time of the Year when they shall be Chosen Requireth, and sit in the Hustings Court while the Commons Chuse them. The Order is, That they must Chuse Master Recorder for one of their Knights, and One Gray Cloak for the other; And Two Commoners for the Burgeses, which done, they Depart. P. 30.

As to the day of Election, It was formerly St. Matthew's Day; but by an Act of Common Council, 7 Car. 1. (The like Act having been formerly made, 36 Eliz. onely with less Penalties) All Former Acts touching Election and CONFIRMATION of Sheriffs (the Penalties having been too mild) made Void. The day, as well for Confirmation, and Allowance of such Persons as shall be Chosen and Elected by the Lord Mayor, or to be Sheriffs, as for the Choice of such other persons as by the Lord Mayor, Aldermen and Commons shall be Chosen, shall be the 24th of June.

We shall now come to the Practice of my Lord Mayor's Chusing One Sheriff; The Antiquity of it; And see what the City-Records say upon it.

Touching the Election of Sheriffs of London and Middlesex.

The Charters are to the Citizens to Chuse their SHERIFFS: but by Usage, and Particular By-Laws Those Elections have been Restrained to the Liveries.

Edward 2. sent down a Writ Reciting that the Citizens are to Chuse their Mayor and Sheriffs, and That These Elections used to be *per Majorem & Aldermanos, nec non discretiores Civitatis.*

In an Act of Common-Council, 4 H. 5. is recited, that *Major & Vicecomites liberè & Indifferenter Eligi debereut per sufficientiores Civitatis, pro Electionibus hujusmodi summonitos.*

21 Hen. 8. A Letter from the Court of Aldermen acquainting one, that he had been Chosen by the Commonalty, and to be associate with another before appointed by the Mayor, and by the Citizens Confirmed.

Anno 1630. One Elected by the Mayor (his said Election being also Confirmed by the Livery of the Companies) appeared before the Court of Aldermen.

In all Entries Extant of Sheriffs, Chosen to the 20th Year of E. 2. (where any mention is made by whom they were Chosen) it is *Per Cives, or Per Majorem, Aldermanos & Probos Homines Civitatis, or Per Communitatem*; and once, *Per Custodem & Aldermanos.*

7 E. 2. *Per Common Councell, Probi Homines Ward* to be summon'd *pro Electione Vice-Comitis facienda una cum Majore & Aldermanis.*

20 E. 3. *Per Common Councell*; For that divers Citizens Absent themselves to Avoid the Office of Sheriff on the day of Election; Those that so do shall forfeit 100 li. and Every Year the Mayor to say in his Conscience, and by his Oath, If he had Chosen any other than he hath Chosen were he present; and he had named the Person (*q'il eust esluz autre Person q'il nad eslu s'il eust esté present & nomme la Personne*) And the Commonalty in the same manner.

From the 20th of E. 2. to 21 E. 3. no Entry is made of Sheriffs Chosen; and in That year the Entry is a Congregation of the Mayor, Aldermen, and Commons to Chuse Sheriffs according to the Custom of the City, wherein One Sheriff was Chosen *per Majorem*, and the Other *per Communitatem*.

Entry is made constantly (Except in Two years, wherein it is not mentioned by whom they were Chosen, to the 14th of Hen. 8.—That year; And so to the 20th Eliz. (Except 20 & 21 H. 8. where 'tis *Un Nominat per Majorem, Alter per Communitatem*) 'Tis One Named *per Majorem*, Alter Elected *per Communitatem*.—20 Eliz. and for 7 years after 'tis *un Elect per Major*; and so is 34 Eliz. 28 Eliz. and to the 33d it is *Nominat per Majorem*.—33 Eliz. *Nominat & Elect per Majorem*.—35 to 41 & 42 Eliz. *Nominat per Major*.

36 Eliz. and so to 17 Car. 1. Report made of the Person Chosen *per Major, per Prerogativam suam, &c.* Then the Commons chose Another, whereupon the Election of both was Confirmed by the Mayor, Aldermen, and Commonalty.

In Four years betwixt 21 E. 3. and 17 Car. 1. Two were Named and Elected *per Communitatem*; but in all Those years the Mayor had before Chosen, and the Persons by him Chosen refused the Office, and underwent the forfeiture before the Common-Hall began.

17 Car. 1. 1641. The House of Lords (in the Difference between the Lord Mayor and Commons touching the Election of Sheriffs) Ordered that the Commonalty should Chuse both *pro hac vice*, saving each other's Right.

From

From That to 1663, The Commons never Confirmed the Mayor's Sheriff; but Chose two themselves. But 1663, 15 Car. 2. And so to 1680, Except 1674, the Mayor's Sheriff was Confirm'd, *Prout* 36 Eliz. — 26 Car. 2. The Commons not Confirming the Mayor's Sheriff, the Lord Mayor and Aldermen Dissolved the *Common Hall* without Determining the Election of Sheriffs: Afterwards, the Common-Council (for an Expedient of Accommodation) Exempted him that the Lord Mayor had so Chosen, from the Shrievalry for Three Years, upon his sealing a Bond to pay the forfeiture, if being then drunk to by the Lord Mayor, and Presented to the Common-Hall, or Elected by the Commons he should not hold. This was one Mr. Roberts, who by telling the Common-Hall that his Estate was abroad, and (it being in time of War) in danger of Loss, prevailed with them to refuse to Confirm him: But my Lord Insisting upon his Prerogative, he gave Bond *ut supra*. The Person is now dead, and Judgment obtain'd against his Executors upon the Bond.

In 1680, The Mayor Elected, or Drank to *six Persons*. The former Five paid their *Fines*, and the Commons refusing to Confirm the *Last*; to end the Dispute, he Seal'd the Bond to pay the forfeiture.

1681. They would not Confirm; but requir'd that the Election of both Sheriffs might be Determin'd by a *Poll*; which the Sheriffs Granted; but the Court of Aldermen Declar'd against it; and call'd out him that the Lord Mayor had Chosen as *Sheriff-Elect*, while the Commons were *Polling*.

Having had often occasion to make mention of the *Sheriff's Bond*, it will not be amiss in this place to Insert the Condition of it; viz. [*If the above Bound A. B. shall and do Personally appear in the Publick Assembly of the Guild-hall on the Vigil of Saint Michael the Arch-Angel next ensuing, betwixt the hours of Eight and Twelve in the Forenoon; And shall then and there take upon him the Office and Charge of Shrievalry of the City of London, and County of Middlesex for the Tear next ensuing; Then, &c.*]

Lib. Albus & Dunthorne.

Speaking of Election of the Sheriffs, say that the Mayor shall first Chuse one; for whom he will Answer of the Moity of the Farm, if the Person be not sufficient; but if he Chuse by advice of the Aldermen, they are to answer with him; And the Commons shall Chuse another; for whom they will answer the *other Moity*.

Act of Com. Coun. 7. R. 2. That the Election of Sheriffs shall be made on *St. Matthew's-day*; and when the Commons shall be agreed upon an able Person, they shall Present him to the Mayor and Aldermen.

Another *Act*, 5. *H. 4.* on *St. Matthew's day*, after a Sheriff (*Postquam Vicecomes*) shall be Elected by the Commonalty, the Mayor, Aldermen and Commons shall chuse Chamberlain, &c. And that none come to the Election of Mayor and Sheriffs, unless Summoned; and those the more Sufficient of the City, or Common-Councilmen.

Another, 5. *E. 6.* Where it was lately Enacted, that on the day of Election of one of the Sheriffs, four Surveyors of the *Brewers* should be chosen by the Commons in like manner as the said Sheriff.

23. *Eliz.* Alderman *Martyn* having been treated with by a Committee of Common-Council touching acceptance of the Office of one of the Sheriffs, Declared in Common-Council, he would accept it, if my Lord Mayor Elect him thereunto; who did afterward Elect him accordingly.

22. *H. 6.* The Mayor named one Sheriff to be Assigned in the name of him, and the Aldermen; and then they left the Commons to make their Election (as they now do, and always have done for ought appears, and did in the Troubles when the Commons chose both Sheriffs) who chose another; divers coming in here that were not Summon'd, the *aforsaid Writ of E. 2.* was read.

16. *R. 2.* Upon the King's Writ to the *Custos*, Aldermen and Commons, to chuse Sheriffs according to Ancient Custom and Usage, the *Custos* chose one, and the Commonalty another.

18. *H. 8.* One Elect by the Commons to joyn with him that was before named by the Mayor, (by his *Prerogative*) and also according to the *Ancient Rules and Ordinances* [33. *H. 8.* According to Divers *Ancient Laws, Usages, and Customs.*]

19. H. 8. One named by the Mayor in the Court of Aldermen, agreed to take the Office upon him — 13. H. 8. The Mayor's Sheriff call'd the *KING'S SHERIFF*.

Act of *Common-Council* 19. H. 8. If any be named and Elected by the Mayor, according to his Ancient *PREROGATIVE*, or by the Commonalty, and take not the Office on *Michaelmas-Eve*, he shall forfeit, &c. To which was added 6. E. 6. that if any more than one being duly Elected 1. Aug. or any other time between that and *Michaelmas-Eve*, make Default, &c.

21. H. 8. This *Prerogative* of the Lord Mayor said (In a Letter of his to the Sheriff Elected) to be by the *Ancient Liberties*, Time out of mind, Used; And 22. H. 8. said to be (upon swearing of the Sheriffs) of *Ancient Time Used*, and Accustom'd, &c. So in an Act of *Common-Council*, 13. Eliz.

Act of *Com. Coun.* 30. H. 8. Election of Sheriffs for the Commonalty shall be on *St. Peter's day*, provided the Mayor shall at any time before *Lammas*, Name and Elect one of the Sheriffs at his Pleasure.

Act 13. Eliz. If any one be chosen Sheriff, either by the Mayor or else by the Commons, and Appear not within five days after notice; he shall forfeit, &c.

Act 24. Eliz. Former Acts being Various and Insufficient, 1. Aug. Now appointed the day for Confirmation, Allowance and Election of the Persons to be Named Sheriffs by the Mayor according to *Ancient Usage*; and for Election of another by the Lord Mayor and Commons, none so Nominated or Elected shall be Excus'd, &c.

If any Nominated by the Mayor and Commons (and Publication thereof made in Presence of the Mayor, six Aldermen, and the Commons there Assembled) shall not appear at the next Court of Aldermen, or shall refuse, he shall forfeit, &c. If the Person Named shall before the 1. of Aug. refuse the Office, &c. The Lord Mayor may before the 1st. of Aug. Nominate again.

None who shall be Chosen or Elected according to 7. Car. 1. shall be Discharged, if worth 10000 *li*.

If any forfeiture should be made by any that shall first be Chosen or Elected by the Lord Mayor, Part of such forfeitures shall be to him that shall first in the same year Accept the Office; And if after such Acceptance, other Forfeitures shall be made by any chosen by the Lord Mayor, Aldermen, and Commons, part thereof shall be to him that shall first after Accept the Office, being Elected by the Lord Mayor, Aldermen, and Commons, and that no Alderman by Posteriority of Election be Inferior to a Commoner while there is an Alderman Eligible.

Most Years since the Beginning of Q. Eliz. Sheriffs Elected by the Mayor, have before *Midsummer* either paid the forfeiture for *not holding*; or sworn themselves not of *Ability*; or *Sealed Bonds to Hold*, and have been frequently call'd out upon the *Hustings* (the Act requiring that Sheriffs Elected shall be Call'd out; and then, if not appearing, to forfeit, &c.) And the *Commons Sheriff* only call'd out on *Midsummer-day*.

Anno 1630. One, Elected Sheriff by the Lord Mayor refused to *Hold*, or pay his forfeiture as Anciently accustomed; but desired Respite till *Midsummer-day*; The Mayor and Aldermen, Unwilling to give way to such Innovation, call'd him forth, and he persisting in his Refusal, the Lord Mayor chose another.

Pray take Notice (as we told you before) that the Charter is directed *Civibus*, That is to say, To the Mayor, Aldermen, and Community; And that the *Common-Hall* is neither a Community, nor a Representative of the Citizens, having no other Foundation, but the Authority of a *By-Law*.

Observe again that upon the Lord Mayor's coming out of the *Council-Chamber* into the *Hall*, the Court is *Proclaim'd*, the *Town-Clerk* Dictating the *Form* to the *Common-Cryer*: After which, the Lord Mayor and Aldermen withdraw into the *Mayor's-Court*, expecting the *Common-Serjeant's Report* of what is done in the *Hall*. In the Conclusion, the Mayor and Aldermen return again into the *Hall*; and the *Recorder* is Comanded to Declare the Persons chosen. The Reason of the Mayor's *Withdrawing*, is to Preserve his *Negative*, and his *going down* is to Declare his *Assent*: But the Proclamation is very Express, As to the Right of the Mayor, and the Words are These.

You, Goodmen of the *Livery*, Summoned hither this day for Confirmation of A. B. Elected by the Lord Mayor by his *PREROGATIVE*, to be one of the Sheriffs for the year ensuing; and for Election of another Person to be the other of the said Sheriffs; draw near, &c.

Now the *Precept* you must know was in the words of the *Proclamation*; and the *Pro-*

clamation in the very words of the *Act of Common-Council*.

Here is enough said of the *Right and Practice* of my Lord Mayor's chusing one Sheriff: We shall now say something to the *Nature* of this *Right*, and shew that this Privilege of my Lord Mayor's is Grounded as well upon *Reason* as upon *Custom*.

The Government of the City of *London* was never a *Democracy*; but a *Body Politique*, Consisting of a Head and Members; by the Name of the Mayor, Commonalty, and Citizens: In which Constitution the Mayor is not only an Integral Part; but the most Eminent and Principal, as the Head to the Body; and nothing can be done by the Corporation without him; All their Assemblies, as *Common-Councils*, and *Common-Halls*, being *Call'd* and *Dissolv'd* by him at pleasure.

This is the Nature of the Corporation of *London* in its Institution; Other Corporations that are by *Charter*, either have or may have such Particular Provision by their *Patents*, that in *Elections* the *Mayors* are *Present* and *Concluded* by the *Majority*. In a word; Every several Corporation is a several *species* of Government: If they are by *Prescription*, then *Custom* Governs all their Proceedings; If they are by *Charter*, within time of *Prescription* (which is since 1. R. 1.) then they can pretend to no *Custom*; but must be Govern'd by their *Charter*: But whether by *Prescription* or *Charter*, they may make Reasonable *By-Laws* for the better Order of their Proceedings; And such *By-Laws* formally made, will Conclude All that are bound by *By-Laws*.

As this is a Corporation of the greatest Eminency in *England*, so it has Officers of all Degrees belonging to it. The Lord Mayor is the *Chief*; His *Council*, the *Aldermen*; And these make up the *Principal Court* of the Corporation. They have a *Recorder*, to Advise them; And then there is the *Chamberlain*, *Town-Clerk*, *Common-Serjeant*, *Cryers*, &c. These are Officers of the Corporation.

The Officers relating to the Government, as *Justices of the Peace*, *Sheriffs*, *Constables*, *Coroners*, are the *Kings Officers*, as it is a County of it self; and are not Officers of the Corporation; for the Lord Mayor is by the Common-Law the Chief Conservator of the Peace of the City; and all Ministerial Officers of the Peace, as the *Sheriffs*, *Constables*, &c. are to be Obedient to his Directions and to Attend him: And of this his Authority, the *King's Sword* being in his Custody is the *Ensign*.

This being the Nature of the Body Politique, and Government of the City of *London*; First, The Mayor has a *Double Capacity*. He is the *King's Officer* as well as *Head* of the Corporation. He is the *King's Vicegerent* and Intrusted with the Government of the City, to Maintain it in due Course of Law; and therefore he is *Presented* to the *King*, and *Approved* by him, and *sworn* to the *King*, and makes his appearance in the Courts of *Westminster-Hall*. 2ly. The *Sheriffs* are only the *King's Officers*, and not the Officers of the Corporation. They are Attendant upon the Mayor's Person, in all Great Assemblies, as he is the *Conservator* of the Peace. They are *chosen* by the Corporation, 'tis true; yet that Alters not the Condition of the Office; but they are still the *King's Officers* and have but the same Power, as if the *King* Nam'd them.

This Privilege being Granted within time of Memory to the Citizens, there can be no *Customs* to Annex their Office to the Corporation, or to make them Subservient to it. *King John* Grants to the Citizens Power to chuse their Sheriffs. The Consequence of this Grant was, That if the *King* had appointed Sheriffs; and they not Responsible to him, he must have lost his Right: But now the Citizens are Answerable for the Sheriffs. There are some that will Infer from this Grant, that the Citizens are to chuse the Sheriffs, and my Lord Mayor has nothing to do to Refuse them. The Answer to this is Obvious; The Citizens is one way of expressing the Corporation; And the Mayor, Commonalty, and Citizens, is another; but they are still the same Corporation; So that a Grant to the Citizens that they shall chuse, and a Grant to the Mayor and Commonalty that they shall chuse, is one and the same thing. The Commonalty without the Mayor are not a Corporation to any Purpose whatsoever, and therefore the Grant is Void, unless understood of the Mayor, as well as of Them. The Corporation cannot meet without the Mayor, nor sit longer than he pleases, as it appears; for the Assembly of the Commons is either by their *Common-Council*, or *Common-Hall*; both which are Summon'd at the Lord Mayor's pleasure (as is said already,) and so Dissolv'd, or Adjourn'd. The *Common-Seal* is Govern'd by the *Common-Council*; and Matters Sealed by the *Common-Seal* run in the style of the Mayor and Commonalty; so that nothing of that kind is Valid without the Concurrence of the Mayor.

The Lord Mayors have taken care to preserve This Privilege of a Negative by being Absent at the time of the Choice; If they were present, it might be said a Concurrence; but

but being *Absent*, there can be no room for That; but the Mayor hath it reserv'd to his Discretion, whether he will *joyn* or not, after he shall be Informed of the Proceedings. Herein the Commons have been mistaken, in thinking it their *Privilege*, to have the Mayor *absent*, as if their Assembly were less free; but truly it is the Privilege of the Mayor thus to Preserve his *Negative*.

The Lord Mayors have taken care to preserve their *Negative* by a *Præ-election*; whereby they put it upon the *Commonalty* to Destroy the Election by disagreeing, with the Mayor, that the Lord Mayor may not have the *Odium* of Disagreeing with them unless they first give occasion.

The *Negative* is reasonable, because it may be the King would not have Granted this Choice of Sheriffs to the City, if they had been a *Corporation* without a *Head*; but relyed upon the Mayor's *Governance*, who is a *Responsible Person*, and the King's Officer; and presented to the King, and sworn to him; So that the Mayor is under, an Oath to Chuse fit Persons to serve the King in the Office of Sheriffs.

This *Negative* is Reasonable again, in Regard that by Law they which Chuse Officers to receive the King's money, are answerable to the King in the Case of Insufficiencie; And the Mayor may be *Personally Liable* in this Case, though he Acts in a *Politique Capacity*.

This *Negative* is more strong yet; because the Sheriffs are the King's Officers; and not the Officers of the Corporation; so that whatsoever they may doe concerning their own Officers, they cannot Exclude the Mayor in the Choice of the King's.

It seems here to be a *Material Objection*; that by this means there may come to be no Choice; for the Mayor and the Common-Hall perhaps will not Agree: But therefore say I the Commons are bound to Confirm; and That way they are sure; If they are not bound to Confirm, neither are they bound to Elect; so that 'tis as Broad as 'tis Long, take it which way you please: But if the Commons are Free Agents, and may either Confirm, or not Confirm, Is not the Mayor a Free Agent as well; And at the same Liberty with the Commons? *Magna Charta*, that saies, *Omnēs Electiones sint liberæ*, Extends as well to Preserve the Freedom of the Mayor, and all other People, in regard to One another, as in regard to the King. By Their way, the Mayor doth not Elect at all, which is Inconsistent with their First Grant; but by the Old way, the Mayor and they Elect Reciprocally; so that they may all properly be said to Elect. If A. and B. are to Joyn in an Election of Two Officers, will it not be unreasonable in either of them to Claim the Naming of Both?

This Reason Back'd with so long Usage; Made out by so many of the City-Records; and By-Laws, should methinks stop the Mouths of All men. For so Long Usage hath been Accounted a Ground to Presume Record; though it cannot be shew'd: Nay to Presume Acts of Parliament between Common Persons (though not against the King) and therefore All that can be Presum'd ought to be Presum'd, in favour of so Ancient an Usage. They Object that Election must be according to their Charter; and Usage will make nothing; Whereas the Charter Implies Nothing, but that the Choice shall be with the Mayor and Commonalty, as is said before. Now in relation to the King, it is not material by what Rules they proceed to Elect, or upon what reasons they go, so as they make a Choice wherein the Mayor and Commonalty Joyn. Suppose there were a By-Law that the Mayor should Elect by Advice of the Court of Aldermen; If he Proceeded that way it would be nevertheless an Action. I do Imagine there was a By-Law that the Citizens should Elect by their Livery-men; which Constitute the Common-Hall: This is so far from being against the Charters, that it was Absolutely Necessary; to avoid Confusion, and Strife. The Charters did not intend Every Citizen should Joyn, No, Nor the Major Part of them. That would be an Intolerable Trouble; but onely the Major Part of them which should be Present; And when the Assemblies were so full that they were Tumultuous, 'twas necessary to restrain the Number of the Liveries. And why should This be against the Charter, when All Corporations have Power of making Reasonable By-Laws? It may well be supposed, that when the Citizens in General, Deputed the Livery-men to Act for them in Elections, they Enjoyn'd them to Confirm my Lord Mayor's Sheriff; Whereupon he was look'd upon as a Complete Sheriff; and the Confirmation but a Formality; That according to the Charter, the whole Body might concur to the Act. These Livery men may be said then to break their Trust, in denying the Confirmation, (after so long Usage) to the hazzard of a Confusion; much rather than Those Former Livery-men, who were nearer the Times of such Constitutions, to break Their Trust,

Trust, and betray the Liberties of the City, in allowing the Election of my Lord Mayor. It is indeed of it self much Declin'd from the Gravity of the *Ancient Common-Hall*; which, at That time, when there were but 12 *Companies*, Consisted of the most *Sober and Substantial Citizens*: but now, by the *Multiplying of Companies*, and Bringing in *Mean Artificers*, and by Calling on to the Livery, not onely persons of a *Low Condition*; but whole Shoals of men *Disaffected* to the Government, to Encrease a *Party*; It is no wonder that This Assembly is fallen into Great Disorder.

Here's a great deal said, to Prove, in Effect, that *the Sun Shines*; for the Lord Mayor's Right upon the Matter in question is no less *Indubitable*, and *Clear*; At least if the *City-Records*, and the Express *Reason*, and *Intent* of his *Commission* may go for any thing. But to come to the Point, The Mayor's *Claim* is the least Thing in the Controverſie; For this Dispute is Started for the Engaging of a *Party*; not the Deciding of a *Right*. The People are first Entitled to the *sovereignty*; And then (upon a Suggestion that their *Privileges* are *Invaſed*; they are Provoked to draw their *Swords*, and *Defend* them. This was the Trick that did the Feat in 1641. The Lord Mayor, and Aldermen were to be *Level'd* with the *Commons*; His Lordship's Authority of *Summoning* and *Dissolving* was first, *Question'd*; (*ſo far we are gon already*) and afterwards, *taken away*. Nay the Mayor himself, follow'd; and these Encroachments brought on by Degrees, the ruin of *King, Church, and People*; and, in short, of the *Three Kingdoms*. He Conclude with the Sum of what befall the City upon giving way to *These Innovations*.

Viceſimo Octavo Februarii, 1648.

An Act of the Commons of England in Parliament Aſſembled, For Removing Obſtructions in the Proceedings of the *Common-Council* of the City of London.

THE Commons of England, in Parliament aſſembled, do Enact, and Ordain, and be it Enacted, and Ordained by the Authority aſoreſaid, that in all times to come, the Lord Mayor of the ſaid City of London, ſo often and at ſuch time as any 10 or more of the Common-Council-men do by Writing under their hands, requeſt or deſire him thereunto, ſhall ſummon, aſſemble, and hold a Common-Council, and if at any time being ſo required or deſired he ſhall fail therein, then the ten perſons, or more making ſuch requeſt or deſire, ſhall have Power, and are hereby Authorized by Writing under their hand, to ſummon or cauſe to be ſummoned, to the ſaid Council, the Members belonging thereunto, in as ample manner as the Lord Mayor himſelf uſually hath done, and that the Members appearing upon the ſame Summons, being of the Number of 40 or more, ſhall become a Common-Council; And that each Officer whoſe duty it ſhall be to warn in, and ſummon the Members of the ſaid Council, ſhall perform the ſame from time to time upon the Warrant or Command of ten Perſons, or more ſo authorized as aſoreſaid: And it is farther Enacted and Ordained by the Authority aſoreſaid, that in every Common-Council hereafter to be aſſembled, the Lord Mayor of the ſaid City for the time being, or in his abſence, ſuch Locum tenens as he ſhall appoint, and in default thereof, the Eldeſt Alderman preſent if any be, and for want of ſuch Alderman, or in caſe of his neglect, or reſuſal therein, then any other perſon Member of the ſaid Council whom the Commons preſent in the ſaid Council ſhall chuſe, ſhall be from time to time Preſident or Chairman of the ſaid Council; and ſhall cauſe and ſuffer all things offered to or propoſed in the ſaid Council to be fairly and orderly debated, But to the Queſtion, Moved, and Determined, in and by the ſame Council, as the Major part of the Members preſent in the ſaid Council ſhall deſire or think fit; and in every Vote which ſhall paſs, and in the other Proceedings of the ſaid Council, neither the Lord Mayor nor Aldermen, joyn't, or ſeparate, ſhall have any negative, or diſtinct Voice, or Vote, otherwiſe than with, and among, and as part of the reſt of the Members of the ſaid Council, and in the ſame manner as the other Members have; and that the abſence and withdrawing of the Lord Mayor, or Aldermen from the ſaid Council, ſhall not ſtop or prejudice the proceeding of the ſaid Council; And that every Common-Council which ſhall be held in the City of London, ſhall ſit and continue ſo long as the Major part of the Council ſhall think fit, and ſhall not be diſſolved or adjourned but by, and according to the Order, or Conſent of the Major part of the ſame Council: And that all the Votes, and Acts of the ſaid Common-Council which was held 13 January laſt, after the departure of the Lord Mayor from the ſame Council, and alſo all Votes and Acts of every Common-Council hereafter to be held, ſhall be from time to time duly Reſiſtered, as the Votes and Acts of the ſaid Council have uſed to be done, in time paſt. And be it farther Enacted and Ordained by the Authority aſoreſaid, that every Officer which ſhall ſit in the ſaid Council, ſhall be from time to time choſen by the ſaid Council, and ſhall have ſuch reaſonable Allowance or Salary, for his pains and ſervice therein, as the Council ſhall think fit: And that every ſuch Officer ſhall attend the ſaid Common-Council, and that all Acts and Records and Reſiſter-Books belonging to the ſaid City, ſhall be extant, to be peruſed and ſearched into by every Citizen of the ſaid City in the preſence of the Officer who ſhall have the Charge of keeping thereof, who is hereby required to attend for the ſame purpoſe. Hen. Scobel, Cler. Parl.

Take Notice that the Vote of Common-Council in the Act above recited of Jan. 13. 1648. When the Lord Mayor went off, and Diſmiſſed the Court, was a *Treaſonable Vote*, for the ſpeedy bringing of the King to Juſtice.

THE END.

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